Rec'd PCT/PTO 0 4 JAN 2005

## PATENT COOPERATION TREATY

RECEIVED From the INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY NOV 2 1 2003 RICHARD J. MINNICH FAY, SHARPE, BEALL, FAGAN FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP MINNICH & MCKEE 11000 SUPERIOR AVENUE, 7TH FLOOR CLEVELAND, OH 44114 WRITTEN OPINION (PCT Rule 66) Date of Mailing **19** NOV 2003 (day/month/year) Applicant's or agent's file reference REPLY DUE within 2 months/days from BVKZ 2 0009 the above date of mailing International application No. International filing date (day/month/year) Priority date (day/month/year) 11 December 2002 (11.12.2002) 12 December 2001 (12.12.2001) International Patent Classification (IPC) or both national classification and IPC IPC(7): A61F 13/00 and US Cl.: 604/304 Applicant **OXYFAST CORPORATION** 1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority. This opinion contains indications relating to the following items: 2. Basis of the opinion **Priority** Ш Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV Lack of unity of invention Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI Certain documents cited VΠ Certain defects in the international application VIII Certain observations on the international application 3. The applicant is hereby invited to reply to this opinion. When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d). How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9. For an additional opportunity to submit amendments, see Rule 66.4. Also For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6 If no reply is filed, the international preliminary examination report will be established on the basis of this opinion. The final date by which the international preliminary 4. examination report must be established according to Rule 69.2 is: 12 April 2004 (12.04.2004) Name and mailing address of the IPEA/US Authorized officer Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450

Form PCT/IPEA/408 (cover sheet)(July 1998)

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## WRITTEN OPINION

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PCT/US02/39680

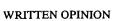
I.	Basis of the opinion				
1.	With regard to the elements of the international application:*				
	the international application as originally filed				
	the description:				
	pages 1-13 , as originally filed				
	pages NONE , filed with the demand				
	pages NONE, filed with the letter of				
	the claims:				
	pages 14-17 , as originally filed pages NONE , as amended (together with any statement) under Article 19				
	pages NONE, filed with the demand				
	pages NONE , filed with the letter of				
	the drawings:				
	pages 1-3 , as originally filed pages NONE , filed with the demand				
	pages NONE , filed with the letter of				
	pages <u>NONE</u> , there will die letter of				
	the sequence listing part of the description:				
	pages NONE, as originally filed				
	pages NONE, filed with the demand				
	pages NONE , filed with the letter of				
2.	With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  These elements were available or furnished to this Authority in the following language which is:				
	the language of a translation furnished for the purposes of international search (under Rule23.1(b)).				
	the language of publication of the international application (under Rule 48.3(b)).				
	the language of the translation furnished for the purposes of international preliminary examination (under Rules				
	55.2 and/or 55.3).				
3.	. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:				
	contained in the international application in printed form.				
	filed together with the international application in computer readable form.				
	furnished subsequently to this Authority in written form.				
	furnished subsequently to this Authority in computer readable form.				
	The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.				
	The statement that the information recorded in computer readable form is identical to the written sequence listing				
	has been furnished.				
4.	The amendments have resulted in the cancellation of:				
	the description, pages NONE				
	the claims, Nos. NONE				
	the drawings, sheets/fig NONE				
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5.	This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).				
* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."					

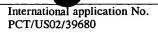


## WRITTEN OPINION

International application No. PCT/US02/39680

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement							
1. STATEMENT							
Novelty (N)	Claims	1-19, 21-22	YES				
, (c.)		20					
Inventive Step (IS)	Claims	1-19, 21-22	YES				
	Claims	20	NO				
			*****				
Industrial Applicability (IA)		1-22					
	Claims	NONE	NO				
Claims 1-19 and 21-22 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the phosphoric acid treated membrane in combination with the other claimed elements.  Claims 1-22 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.							





Supplemental Box					
(To be used when the space in any of the preceding boxes is not sufficient)					
TIME LIMIT:	TD 1 (0// D 1				
The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination					
Report.	preparing the international Premimary Examination				
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